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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/608,639

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Myung-Ah Kang

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12/06/2006

EXAMINER

VOLENTINE FRANCO, & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

ART UNIT

PAPER NUMBER

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/608,639	Applicant(s) KANG ET AL.	
	Examiner John Ruggles	Art Unit 1756	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 18 September 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

Continuation of 10. Other (including any explanation in support of the above items):

Regarding item 1 above, [1] the "REAL PARTIES IN INTEREST" section heading suggests plural parties in interest, which should be corrected to the singular form --REAL PARTY IN INTEREST--, as required by 37 CFR 41.37(c)(i). [2] It is also noted in this section that the phrase "by virtual of an assignment" is confusing and should be corrected to a more appropriate phrase (e.g., --by VIRTUE of an assignment--, etc., in which the replacement term "virtue" is indicated in all capital letters for emphasis).

Regarding item 3 above, [3] the STATUS OF AMENDMENTS section (page 2 of the 9/18/06 appeal brief) fails to mention the 2/14/06 after final amendment that has been entered (e.g., canceling claim 13, etc.) as previously indicated in the 3/7/06 advisory action. 37 CFR 41.37(c)(iv) requires a descriptive statement about the status of all after final amendments.

Regarding item 4 above, [4] the SUMMARY OF CLAIMED SUBJECT MATTER has at least the following errors: (1) the detailed 3-page description of what appears to be each and every limitation in the remaining claims under appeal is not particularly concise as required by 37 CFR 41.37(c)(v); (2) (a) in the 2nd paragraph line 3 (page 2), (b) in the 7th paragraph line 2 (page 3), (c) in the 8th paragraph lines 2-3 (page 3), (d) in the 9th paragraph line 2 (page 3), and (e) in the 15th paragraph line 2 (page 4), "[0100] line 1" is an inaccurate reference to the specification for the description of the transparent substrate 105 (of quartz), which should be corrected to --[0110] line 1-- at all applicable occurrences.

Regarding item 5 above, [5] the GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL section (page 5) is not completely accurate in that (1) the prior art rejection of claims 2-5, 7-10, 12, and 14-15 over Ham is not under 35 USC "102 & 103" (as stated by Appellants on page 5 of the current appeal brief), but rather under 35 USC --102(b) OR 103(a)-- (as clearly stated to be in alternative form on page 10 of the 11/18/05 FINAL rejection). (2) Correction to this ground of rejection should also be made in the corresponding argument "2" first paragraph (page 8).

Regarding item 6 above, [6] in the ARGUMENT section (beginning on page 5), Appellants have failed to provide separate sub-headings for claims argued under a single combined ground of rejection under each separate main heading, so the Board of Patent Appeals and Interferences (BPAI) may select a single claim to be addressed under each main heading in which the claims are argued either separately or together as a group for that single ground of rejection, in accordance with 37 CFR 41.37(c)(vii). It is further noted that [7] the specific references to sections of the MPEP upon which Appellants rely throughout the arguments section (at least on pages 8-11) are either clearly in error (e.g., at the bottom of page 8 it is believed that MPEP "2212(IV)" should have been MPEP --2112(IV)--, etc.) or at least suspect, since the quoted passages do not seem to correspond with the references given by Appellants for at least several of such quoted passages. It is important that Appellants check all references relied upon to support their arguments.

Appellants must make all needed corrections in response to this Office action in order to avoid dismissal of the appeal as required by 37 CFR 41.37(d).

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571-272-1390


S. ROSASCO
PRIMARY EXAMINER
GROUP 1500